

UNITED STATES INTERNATIONAL TRADE COMMISSION

**COMMERCIAL AVAILABILITY OF APPAREL INPUTS (2004):
EFFECT OF PROVIDING PREFERENTIAL TREATMENT TO APPAREL
OF FANCY POLYESTER-RAYON SUITING FABRICS
FROM CARIBBEAN BASIN COUNTRIES**

Investigation No. 332-458-017

October 2004



Commercial Availability of Apparel Inputs (2004): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries

U.S. International Trade Commission Investigation No. 332-458-017

Products	Apparel of fancy polyester-rayon suiting fabrics
Requesting Parties	Fishman & Tobin, Inc., Conshohocken, PA
Date of Commission Report: USTR Public	October 4, 2004 October 2004
Commission Contact	Jackie W. Jones (202-205-3466; jackie.jones@usitc.gov)

NOTICE

THIS REPORT IS A PUBLIC VERSION OF THE REPORT SUBMITTED TO USTR ON OCTOBER 4, 2004. ALL CONFIDENTIAL INFORMATION HAS BEEN REMOVED AND REPLACED WITH ASTERISKS (*)**

Summary of Findings

The Commission's advice in this report relates to fancy polyester-rayon suiting fabrics named in two separate petitions filed concurrently by Fishman & Tobin, Inc. The Commission's analysis indicates that granting duty-free and quota-free treatment to U.S. apparel imports from eligible Caribbean Basin countries containing the fancy polyester-rayon suiting fabrics named in both petitions, regardless of the source of the fabrics, would likely have a negligible adverse effect on U.S. fiber, yarn, and fabric producers and their workers, because there currently is no known domestic production of the subject fabrics and the inputs going into the manufacture of these fabrics. An official of a U.S. fabric producer stated that it plans to produce and market a line of polyester-rayon suiting fabrics for fall 2005. However, information available to the Commission suggests that this line of suiting fabrics may differ from the subject fabrics in terms of the raw materials used and, in turn, the inherent properties of the fabrics. The proposed action would likely benefit U.S. firms making apparel in eligible countries from the subject fabrics, and their U.S.-based workers, as well as U.S. consumers.

Background

On February 2, 2004, following receipt of a request from the United States Trade Representative (USTR), the Commission instituted investigation No. 332-458, *Commercial Availability of Apparel Inputs (2004): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries*, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) to provide advice regarding the probable economic effect of granting preferential treatment for apparel made from fabrics or yarns that are the subject of petitions filed by interested parties in 2004 with the Committee for the Implementation of Textile Agreements (CITA) under the "commercial availability" provisions of the African Growth and Opportunity Act (AGOA), the United States-Caribbean Basin Trade Partnership Act (CBTPA), and the Andean Trade Promotion and Drug Eradication Act (ATPDEA).¹

¹ For more information on the investigation, see the Commission's notice of investigation published in the *Federal Register* of Feb. 9, 2004 (69 F.R. 6003) and consult the Commission's website at www.usitc.gov/332s/shortsup/shortsupintro.htm.

The Commission's advice in this report relates to two petitions received by CITA on August 24, 2004, each alleging that certain fancy polyester-rayon suiting fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner. The petitioner requests that the President proclaim preferential treatment for apparel made in eligible CBTPA beneficiary countries from such fabric, regardless of the source of the fabric. The President is required to submit a report to the House Committee on Ways and Means and to the Senate Committee on Finance that sets forth the action proposed to be implemented, the reasons for such action, and the advice obtained from the Commission and the appropriate advisory committee within 60 days after a request is received from an interested party.²

Discussion of the product

The two petitions state that both of the subject fabrics are classified in subheading 5515.11.00 (statistical reporting number 5515.11.0005) of the Harmonized Tariff Schedule of the United States (HTS), which covers woven fabrics of polyester staple fibers mixed mainly or solely with viscose rayon staple fibers, of yarns of different colors (other than blue denim or jacquard weave). The petitions describe the fabrics as fancy polyester-rayon blend suiting fabrics, comprising by weight 65 percent polyester and 35 percent rayon staple fibers, of yarns of different colors. The subject fabrics are used by the petitioner in the production of boys' and young men's suits and tailored pants. The 2004 rates of duty on such garments, classified in HTS chapter 62 (apparel, not knitted or crocheted), are 27.3 and 27.9 percent ad valorem, respectively.

The fabrics named in the petition are made of two-ply combed or carded³ and ring spun yarns in the warp and the filling,⁴ and in 58-59 inch widths.⁵ The fancy colored yarns are made from dyed fibers (not yarn-dyed) which allow for unique combinations of multi-colored fancy fabrics.⁶ The warp and filling yarns are 2-ply 30s and 40s singles yarns and the fabric weight ranges from approximately 260 to 310 grams per yard. The fabrics named in the two petitions differ primarily by the type of yarn used in their production. One petition covers fabric made from "combed" yarns spun on the worsted system and, for purposes of this report, will be referred to as fabric 1; while the other petition covers fabric made from "carded" yarns spun on the synthetic system, and for purposes of this report, will be referred to as fabric 2. The petitions indicate that although the two fabrics are made from yarns spun on two different systems, the fabrics are identical in appearance, specification, and performance. However, the petitioner stated that there may be some difference in the "hand" or feel of the fabrics. For example, fabric 1, made of combed yarns rather than carded yarns may have a softer feel. In addition, the petitions indicate that the superior colors and characteristics of the fabrics are of a higher quality than any fabrics currently produced in the United States. Fabric made on the worsted system or with combed yarns is generally more expensive than fabric

² In Executive Order No. 13191, the President delegated to CITA the authority to determine whether particular fabrics or yarns cannot be supplied by the domestic industry in commercial quantities in a timely manner. The President authorized CITA and USTR to submit the required report to the Congress.

³ Staple fibers go through the carding process and, to be further refined, through the combing process. The carding process disentangles the fibers to prepare them for spinning, and is done by passing the fibers between rollers covered with fine wire teeth. This step produces a loose, untwisted, rope-like "sliver," ready for spinning. The combing process would take place after the carding process and removes any remaining shorter fibers and further aligns the longer ones to produce "tops," a smoother, more uniform sliver suitable for spinning under the worsted system. See U.S. Customs Service, "Fibers and Yarns: Construction and Classification Under the HTSUS," *Customs Bulletin and Decisions*, vol. 34, No. 52, Dec. 27, 2000, p. 127.

⁴ Warp ends run lengthwise on the loom and in the fabric, while filling yarns, also known as picks, run across the width of the loom and the fabric.

⁵ Information in this paragraph is from the petitions filed with CITA on behalf of Fishman & Tobin by Sharretts, Paley, Carter & Blauvelt, P.C., Aug. 24, 2004; and from telephone interviews and e-mail correspondence with Robert Granato, Vice-President of Fabric Sourcing and Purchasing, Fishman & Tobin, and Commission staff, Sept. 13, 15, 16, and 20, 2004.

⁶ Manmade or synthetic fibers may be dyed in the solution from which the fibers are formed, (these are solution dyed); or in the form of loose fibers, (stock dyed); or after the fibers have been spun into yarn, (yarn dyed).

made on the synthetic system or with carded yarns, as more production processes are involved in the production of combed yarn.

The petitions use the term “fancy” to refer to multi-color or multi-surface fabrics that are made with a pattern or design either by using different colors in one style of fabric or by using different weaves.⁷ According to an official of the petitioner, approximately *** percent of the subject fabrics Fishman & Tobin refers to as a “fancy” are multi-color fabrics. For example, a “fancy” fabric may be a plain or twill weave in a navy, charcoal gray, or olive background with contrasting stripes or it may be woven with a small check design or a plaid. ***

The petitioner, Fishman & Tobin, imports children’s clothing either from its subsidiary in the Dominican Republic or from independent contractors in Guatemala and Nicaragua.⁸ A trade report states that the firm “controls some 90 percent of the boys’ dresswear market—offering suits, dress shirts, blazers and pants for the Claiborne, Van Heusen, Arrow, and Sean John brands, as well as private label *** programs.”⁹ Fishman & Tobin sources both types of the fancy polyester-rayon suiting fabrics from India ***. Fishman & Tobin purchases the subject fabrics ***¹⁰***

Fishman & Tobin ***¹¹***

Discussion of affected U.S. industries, workers, and consumers¹²

Information available to the Commission shows that there is currently no known domestic production of the subject fabrics. However, a representative of the Burlington division of the International Textile Group (ITG) stated that the company was developing a line of polyester-rayon blended fabrics which Burlington stated could be used by the petitioner in the production of boys’ suits. *** (there is only one U.S. producer of rayon staple fibers and these fibers are not fiber-dyed). Officials for ***¹³ Commission staff also spoke with five U.S. yarn producers which staff believed might produce yarns used to produce the subject fabrics. An official for one of the yarn producers, *** stated that it did not produce the yarns. An official for ***. An official for *** Commission staff also spoke with the only U.S. producer of rayon staple fibers, which does not produce fiber-dyed rayon staple.

⁷ Information in this paragraph is from Robert Granato, Fishman & Tobin, telephone interview by Commission staff, Sept. 15, 2004.

⁸ The petition states that the garments imported by Fishman & Tobin from the Dominican Republic are made by Minikin Togs, Inc., which has seven factories and two warehouses located in the Santiago Free Trade Zone.

⁹ See “The Present: Offering a True Competitive Advantage,” *DNR (Daily News Record)*, Fairchild Publications, New York, NY, Aug. 9, 2004 (page 9 of a 19-page advertisement on the firm celebrating 90 years of being in business).

¹⁰ ***

¹¹ Information in this paragraph is from telephone interviews and e-mail correspondence between Robert Granato, Fishman & Tobin, and Commission staff, Sept. 15, 16, and 20, 2004.

¹² In general, the manufacturing progression for the fabrics which are the subject of the two petitions is: (1) fibers are processed or spun into yarns, (2) yarns are woven into fabrics, (3) fabrics are cut into components, and (4) components are sewn into finished goods.

¹³ *** does not produce apparel fabrics, only upholstery and other home furnishing fabrics.

Fabric producers

Officials of the Burlington division of the ITG stated that the division is developing a line of polyester-rayon fabrics using production methods similar to those used to produce the subject fabrics, with the intention of marketing this line of fabrics for fall 2005.¹⁴ ***¹⁵

Information available to the Commission suggests that these fabrics may differ from the subject fabrics since the fabrics developed by Burlington will be produced using some raw materials different from the subject fabrics. *** In addition, ***¹⁶

An official of Schneider Mills stated that the ***¹⁷***. Schneider Mills produces primarily fabrics of synthetic fibers—nylon and polyester—and uses such products as linings for the U.S. military and industrial textiles.

An official of Delta Mills, New York, NY, stated that ***¹⁸***

An official from ***¹⁹

Fiber producers

There is only one producer of rayon staple fiber in the United States—Liberty Fibers, Lowland, TN.²⁰ However, Liberty Fibers only produces rayon staple fibers in natural white, and does not produce fiber-dyed rayon staple. According to an official of Liberty Fibers, the vast majority of what the company produces is short staple rayon fibers; that is, fibers which are less than 2 inches long. The company is capable of producing long staple rayon fibers of a heavier denier, up to 4 inches long, and it does produce a minimal amount of these fibers. ***

Yarn producers

An official of Carolina Mills, Maiden, NC, stated that it does not produce the yarns used to produce the subject fabrics; and ***²¹***

An official for Brodnax Mills, a domestic producer of specialty made-to-order yarns, stated that it ***²²

An official of Pharr Yarns, a domestic producer of specialty made-to-order yarns of manmade fibers, stated that it is currently not producing the subject 65 percent polyester/35 percent rayon yarns.²³ However, this official indicated that the mill has the capacity to produce such a yarn and could do so if it received an order. ***

¹⁴ Information in this paragraph is from the ITG Burlington Division submission to the Commission regarding Investigation No. 332-458-017, Apparel of Fancy Polyester-Rayon Suiting Fabrics, Sept. 14, 2004, and from a telephone interview with ***¹⁵ ***

¹⁶ *** telephone interview by Commission staff, Sept. 13 and 20, 2004.

¹⁷ Information in this paragraph is from a telephone interview with *** , by Commission staff, Sept. 16, 2004.

¹⁸ Information in this paragraph is from a telephone interview with *** , by Commission staff, Sept. 14, 2004.

¹⁹ *** , telephone interview by Commission staff, Sept. 22, 2004.

²⁰ Information in this paragraph is from Liberty Fibers' website, <http://www.lenzingfibers.com/products.htm>; and *** , telephone interview by Commission staff, Sept. 24 and 28, 2004.

²¹ *** , telephone interviews by Commission staff, Sept. 16, 2004.

²² *** telephone interview by Commission staff, Sept. 21, 2004.

²³ Bill Carstarphen, Senior Vice-President, Pharr Yarns, Inc., McAdenville, NC, telephone interview by Commission staff, Sept. 28, 2004.

An official of Tuscarora Yarns, Inc., a U.S. specialty yarn producer that also produces on a made-to-order basis, stated that although it is not currently producing the subject yarns used in the production of the subject fabric, it has the capability to dye rayon staple fibers and produce the subject yarns, and has done so in the past.²⁴ ***

Views of interested parties

The International Textile Group on behalf of its Burlington division opposes both petitions filed by Fishman & Tobin. In its submission opposing a short supply designation for the fancy polyester-rayon suiting fabrics made of yarns produced on the synthetic system, fabric 2, ITG states that it is developing a U.S.-made line of polyester-rayon suiting fabrics that will be produced in a manner similar to the production of the subject fabrics. ITG states that this line of fabrics is to be marketed for the fall 2005 season. ITG states that one of the company's goals is to supply quality innovative fabrics that could be used in apparel production in the Caribbean Basin countries, Mexico, and the United States. The submission questions the definition of the term "fancy," asking whether if a short supply designation is granted, would a solid color 65/35 polyester rayon twill fabric of suit weight be considered a "fancy." Burlington produces such fabrics.

In ITG's second submission, also on behalf of their Burlington division, it opposes designation of the subject fabric made of yarns spun on the worsted system. ITG questions whether the Customs Service (Customs and Border Protection) would be able to differentiate the subject fabrics made from yarns spun on the synthetic system from the subject fabrics made of yarns spun on the worsted system. ITG states that its Burlington division has the capability, including the equipment, to produce fabrics with yarns spun on the worsted system. However, the submission asserts that producing the fabrics on the worsted system would be more expensive than producing the subject fabrics on the synthetic system. ITG also questions the definition of "fancy" as it did in its first submission discussed above.

Probable economic effect advice²⁵

The Commission's analysis indicates that granting duty-free and quota-free treatment to U.S. imports of apparel made in eligible CBTPA beneficiary countries from the fancy polyester-rayon suiting fabrics named in both petitions, regardless of the source of such fabrics, could have a negligible adverse effect on U.S. fabric, yarn, and fiber producers and their workers. The information available to the Commission indicates that there is currently no known U.S. production of the subject fabrics. An official of the Burlington division of ITG stated that the firm plans to produce and market a line of polyester-rayon suiting fabrics for fall 2005. However, information available to the Commission suggests that the Burlington fabrics may differ from the subject fabrics in terms of the manufacture of their raw materials and, in turn, their inherent properties and, therefore, are not likely to be substitutes for the subject fabrics.

Information available to the Commission indicates that there currently is no known domestic production of key inputs used to produce the subject fabrics. For example, there is no current production of fiber-dyed rayon staple. There is only one U.S. firm that produces rayon staple fiber domestically, but it is not fiber dyed ***

The Commission identified ***.

The proposed preferential treatment likely would have a negligible effect on U.S. apparel producers, and their employees. Imports supply most of the domestic market for apparel made from the subject fabrics.

²⁴ Peter Hegarty, President, Tuscarora Yarns, Inc., Mount Pleasant, NC, telephone interview by Commission staff, Sept. 28, 2004.

²⁵ The Commission's advice is based on information currently available to the Commission.

The expected increase in imports of apparel made in eligible CBTPA countries from the subject fabrics would likely displace mostly imports coming primarily from Asia, because any U.S. and NAFTA production is likely for niche markets or quick response programs. The proposed preferential treatment would likely benefit U.S. firms and their workers making such apparel in eligible CBTPA countries from the subject fabrics by increasing the supply and availability of the fabrics. The proposed preferential treatment also would likely benefit U.S. consumers of apparel made from the subject fabrics to the extent that importers pass on some of the duty savings to retail consumers. As noted above, the rate of duty on boys' suits and tailored trousers of synthetic fibers is 27.3 and 27.9 percent ad valorem, respectively.